

Frank I. Hall .. #1249805

A.x.c.I.

633 Oldland Fill Rd.

TAYLORSVILLE N.C. 28681

FILED
CHARLOTTE, NC

FEB 21 2023

IN THE UNITED STATES DISTRICT COURT ^{US DISTRICT COURT}
FOR THE DISTRICT OF NORTH CAROLINA ^{WESTERN DISTRICT OF NC}

FRANK I. HALL
Plaintiff.

v.

WADESBORO POLICE DEPARTMENT, ANSON COUNTY POLICE DEPARTMENT, (And several unnamed officers at the time involved in the shooting.) Sued in their individual and official capacities.

Defendants

CASE No: 3:23-cv-106-MR

CIVIL RIGHTS COMPLAINT § 1983

Trial by Jury Demand.

COMES NOW, Frank I. Hall #1249805, Plaintiff who presents the following civil-right's complaint and claim for compensatory, declaratory, and injunctive relief as follows.

1. INTRODUCTION.

1. The Plaintiff introduce this civil-action placing before the court a lawsuit involving Wadesboro Police Department and the Anson County Police Department, A state Net work employed by the STATE OF NORTH CAROLINA BENEVOLENT ASSOCIATION.
2. This Complaint is issued into Federal Courts for a lawsuit against Wadesboro Police-Department and Anson County Police Department. (and several unnamed officers at the time involved in the shooting). For civil Right's Complaint and Trial by Jury demand.

3. This complaint alleges that Plaintiff's life was placed in danger by several unnamed officers at the time of this filing of Wadesboro Police Department and Anson County Police Department.

Defendants: Several unnamed officers involved in the shooting of Plaintiff of Wadesboro Police Department, and Anson County Police Department at all times throughout this complaint will be addressed as "Def. unnamed officers involved in the shooting of Plaintiff." at all times relevant to this action was/is employed as officers charged with the duty and care to serve and protect civilians as well as Plaintiff.

II. PARTIES

PLAINTIFF:

4. FRANK I. HALL # ("Plaintiff") is presently serving a criminal sentence in the custody of the North Carolina Department of Adult Corrections. At all times NCDAC relevant to this action. Plaintiff was housed at A.X.C.I. 633 old landfill road, Taylorsville N.C. 28681. where he currently resides.
5. DEFENDANTS: Several unnamed officers involved in the shooting of Plaintiff (officers at Wadesboro Police Department and Anson County Police Department) at all times relevant to this action, was/is contracted by the state of North Carolina Benevolent Association acted under color of state law. Several unnamed officers involved in the shooting of Plaintiff, are hereby sued in their individual as well as official capacities. Jointly and severally for those acts and omissions described fully below.

III. JURISDICTION AND VENUE

6. Jurisdiction is asserted pursuant to the United States Constitution and 42 U.S.C. § 1983. To redress the deprivation of those rights secured by the United States Constitution, deprived by persons acting under color of state law. The Court has jurisdiction over these matters pursuant to 28 U.S.C. §§ 1331, 1343.

7. Plaintiff's claims for injunctive relief is authorized Pursuant to 28. u.s.c. § 1651.

8. The United States District Court, for the District of North Carolina in the County of Alexander. City of Taylorsville is the appropriate venue for trial Pursuant to 28 u.s.c. § 1391 (b) - (2): The County of Anson is where the events complained of have occurred.

IV. PREVIOUS LAWSUITS

9. Plaintiff has filed no "civil suit" regarding any of the issues in this complaints.

V. STATEMENT OF FACTS

10. Plaintiff suffered one of several injuries on May 26, 2020. Plaintiff suffered severe trauma from multiple bullet wounds to the torso; legs, face and back (where Plaintiff was laying facedown in the parking lot where additional bullets were sustained by the Plaintiff from the Defendants. Unnamed officers involved in the shooting of Plaintiff at all times in this action). in the back and buttock Paralyzing Plaintiff after surrendering. Leaving Plaintiff a Paraplegic for the rest of Plaintiff's life.
11. Plaintiff was on the Night of May 26 2020. Was at the Anson Inn. where he had hitchhiked a ride from a woman driving a white Kia alto mobile where he requested to be dropped off. There were also 2 additional male Passengers who were sitting in the front right Passenger seat, the other behind the driver.
12. Plaintiff requested that the driver take him to Rockingham. When a cruiser (Police) Pulled behind and turned on his overhead lights and began to Pursue the vehicle.
13. Two other Passengers in the vehicle told the driver to Pull off or they were going to Get out the the vehicle and shoot the cop before backUp arrived.
14. This order led the driver to lead the Police on a high speed chase which at this time the Plaintiff discovers the automobile he caught a hitchhiked ride in was stolen.

15. While in Pursuit of the white Kia. by Wadesboro and Anson County Police. The Female driver of the white Kia wrecked the automobile by hitting a Pole ^{near} Murtlewood apartment's Parking lot.

16. After the automobile was wrecked. Two Passengers fled the scene as well as the Plaintiff out of fear of being incriminated with the rest of the Passengers in the vehicle. whom went in different directions.

17. Plaintiff ran into the neighborhood where he ran into several other officers from the Wadesboro Police Department And Anson County Sheriff's Department.

18. Wadesboro and Anson County Police and Sheriff's saw Plaintiff with a weapon while fleeing when he ran into the officers who prepared to discharge their weapons on the Plaintiff.

19. When Plaintiff fled from the officers who became Defendant's unnamed officers involved in the shooting of Plaintiff at all times in this action discharged their weapons while Plaintiff fled which cause the Plaintiff out of fear to shoot back discharging his weapon.

20. As a result the Plaintiff was struck in the torso and legs. Plaintiff Phoned his Nadira Smith and informed her that the Plaintiff loved them and believed he was going to die. as Plaintiff believed this was the day after the death of George Floyd and The Defendant's. unnamed officers involved in the shooting of Plaintiff at all times in this action. were infact going to kill him.

21. The Plaintiff hung up his Phone and threw the weapon under a vehicle in the Parking lot and Tried as best he could to yell out he surrendered through the Pain of being shot in the face. The Plaintiff Layed on his stomach and Placed his fingers interlocked under his head.

22. while laying in a position of surrender, not resisting or Presumed a threat with his Hands in front of his head, when the Defendant's, unnamed officers involved in the shooting of Plaintiff at all times in this action approached The Plaintiff Stated: "I Give up, I surrender, I can't breathe". The Defendant's, unnamed officers involved in the shooting of Plaintiff at all times discharged their weapons several times into the Plaintiff's back and again into the buttock area Paralyzing Plaintiff from the waist down rendering Plaintiff a Paraplegic for the rest of his life. This incident took place around 11:45 P.m.
23. Plaintiff sustained multiple injuries as a result from several unnamed officers at the time involved in the shooting of the Plaintiff, such were: Broken left tibia, Broken right femur, Broken Left mandible,
24. At the time Plaintiff had surrendered with his arms braced against his head, while lay flat on Plaintiff's stomach with no weapon, several unnamed officers at the time involved in the shooting of the Plaintiff - at all times relevant discharged their fire arms at Point-blank range standing over Plaintiff (2) - Two bullets into the Plaintiff's back and (1) one bullet in Plaintiff's right buttock.
25. One Bullet was removed from Plaintiff's fourteenth (14) - and Fifth-Teenth-(15) vertebrae
26. Plaintiff was also shot in the left Jaw severing Plaintiff's tongue by several unnamed officers at the time involved in the shooting of the Plaintiff - at all times relevant.
27. Plaintiff was taken to Wadesboro Hospital in Wadesboro North Carolina where Plaintiff was air lifted to CMC Trauma Facility in Charlotte, North Carolina where CMC medical staff labored around the clock to save Plaintiff's life.
28. Plaintiff had to have multiple surgeries, Plastic surgery, Plaintiff's tongue sewed back on, exterior screws to hold the left jaw bone in place, A rod placed in the left leg for broken tibia, Rod in right thigh due to broken femur and emergency spinal surgery caused by damage done by several unnamed officers

at the time involved in the shooting of Plaintiff- relevant at all times discharging their fire arms into Plaintiff's back after Plaintiff surrendered and had no weapon any longer also no longer a threat

29. CMC. Trauma unit Physician Dr Kim Placed a screw and a Plate to hold Plaintiff's spine in place.
30. The result from the above mentioned injuries. Plaintiff suffers severe nerve damage. Plaintiff can no longer walk as a result of injuries suffered when Plaintiff had submitted and was no longer a threat.
31. Plaintiff is now a Paraplegic, has under gone surgery where Plaintiff now has to wear a colostomy bag, a Tracheotomy to help Plaintiff breathe also multiple blood transfusions due to extreme blood loss and over excessive bullets lodged into Plaintiff's body.
32. Plaintiff endures severe Pain. consisting along with uncontrollable muscle spasms.
33. While at Central Prison under a doctors care Plaintiff was subscribed and treated with Oxycodone, Gaviscon, and neuroten for the severe Pain and muscle and nerve damage.
34. Upon being transferred to A.x.c.1 #4870 Plaintiff has been switched to what is called Methacarbonal and amitryptilene which does not help nor abate the severe Pain the Plaintiff endures on a daily basis.

VI EXHAUSTION OF ADMINISTRATIVE REMEDY

Malik v. D.C., 574 F.3d 781 (D.C. Cir. 2009) (Prisoners cannot be expected to exhaust administrative remedies that do not exist; PLRA inapplicable).

VII CAUSE OF ACTION

Plaintiff incorporates by reference the allegations in all preceding paragraphs as if fully set forth herein.

Pursuant to the Eighth Amendment of the U.S. Constitution, Plaintiff was entitled to be free from excessive force.

Plaintiff faced serious medical needs because of his conditions after excessive force was used that left Plaintiff paraplegic, permanent use of a colostomy bag, a broken tibia, broken femur, plastic surgery, broken mandible, screws in Plaintiff's spine, jaw, rods in leg, and thigh which Plaintiff's condition significantly affects daily activities which Plaintiff experiences chronic and substantial pain.

Defendants, several unnamed officers at the time involved in the shooting of the Plaintiff relevant at all times was aware that Plaintiff had surrendered when Plaintiff discarded weapon, layed down face down on the pavement with his hands interlocking at his face would require serious medical attention after being shot in the back multiple times and buttock while surrendering

Plaintiff faced excessive force, cruel and unusual punishment and serious risk of fatal injuries sustained while in a position of surrender, face down hand interlocked on face while being shot close range several times in the back and buttocks while unarmed.

Defendants, several unnamed officers at the time involved in the shooting of the Plaintiff relevant at all times was aware at all times discharging their weapon/ fire arms while Plaintiff was in a stance of surrender would formally impose a punishment of cruel and unusual unnecessary and wanton infliction of pain and possibly death that was malicious and uncalled for totally without justification, and grossly out of proportion.

Defendants, several unnamed officers at the time involved in the shooting of Plaintiff at all times relevant were aware of a risk to be held liable; by acting with deliberate indifference when Plaintiff was on the Ground face down with fingers interlocked at Plaintiff's Face! Pleading 'I Give up, I surrender,' executed cruel and unusual Punishment by discharging their weapons into an unarmed Plaintiff meets requisite harm needed to satisfy the objective test for Eighth Amendment Violation be held liable of risk that was obvious that a reasonable Police officer would have been aware of it.

A viable Eighth Amendment claim is shown when Police officials failed to take necessary Protective steps because Plaintiff had a weapon then after being shot several times discarded the weapon, layed face down on the Ground with fingers interlocking at the Face! and no longer represented a threat to officers nor the Public.

A "deliberate indifference" standard applies to Plaintiff's claims that conditions of surrendering and discarding the weapon while several Police officers still discharged their weapons Point blank range into Plaintiff's back and buttocks where a doctor can show inter and exit of the injuries amount to cruel and unusual Punishment.

Plaintiff is well within reason to bring a suit for use of excessive force under the Eighth Amendment.

Shooting the unarmed Plaintiff causing surmountable injuries causing Plaintiff to be left Paraplegic after being shot while facedown as Punishment held violation of Eighth Amendment, Police officers are not entitled to Qualified Immunity from claim for damages under § 1983.

Deliberate indifference may be inferred from fact that risk of harm was obvious.

Plaintiff alleges viable Eighth Amendment claim when several unnamed officers at the time involved in the shooting of Plaintiff at all times relevant discharge their weapon into Plaintiff while laying face down with hands interlocked at the 'face' while pleading: "I Give up, I surrender" while observing at the time Plaintiff discarded weapon, but was still shot several times showed such actions as cruel and unusual punishment.

Defendants, several officers unnamed officers at the time involved in the shooting of Plaintiff at all times relevant, Plaintiff alleges Viable Eighth Amendment claim when official fired even when Plaintiff was cooperating and showed no signs of being combative and actions of officers further was unwarranted and malicious.

Plaintiff being shot after Plaintiff is no longer resisting, No longer has a weapon is a violation of Eighth Amendment.

Plaintiff approach and shot after no longer in possession of a weapon is a Eighth Amendment violation because the level of force by officers was no longer justified.

Defendants several unnamed officers at the time involved in the shooting of the Plaintiff had a duty to exercise reasonably prudent safety measures to the Plaintiff, they the defendants failed, therefore that duty owed to the Plaintiff was breached, causing Plaintiff to sustain injury and unwanted pain and psychological stress.

But for Defendants acts and omissions Plaintiff would not have been subjected and having to live in prolonged physical pain and the resulting permanent injuries.

The actions and omissions of defendants were undertaken with deliberate indifference to the rights of Plaintiff and were objectively unreasonable.

Plaintiff suffers injury that is in fact connected to the conduct the defendants displayed likely of redress by a judicial decision. *Lujan*, 504 U.S. at 560-61.

Plaintiff suffers 'an invasion of a legally protected interest' that is 'concrete and Particularized' and 'actual or imminent', *Spokeo Inc. v. Robins*, 578 U.S. —, —, 136 S.Ct. 1540, 1548, 194 L.Ed. 2d 635 (2016). "One does not have to wait the consummation of threatened injury to obtain Preventive relief (Quoting *Lujan*, 504 U.S. at 560).

Plaintiff's complaint is "standing" above, a controversy and is ripe for adjudication. (*Thomas v. Anchorage Equal Rights*, 220 F.3d 1134, 1138, 39 (9th Cir. 2000).

Defendants' Questionable conduct was Perpetrated "under color of state law".

Plaintiff's complaint is evidence submitted with the complaint is sufficient to establish standing. (*Lujan* at 560-61).

Plaintiff's civil injury was caused by an exercise of authority conferred or imposed by the state, and defendant's acted as state agents. *Lugar v. Edmondson Oil Co.* 457 U.S. 922, 937 (1982).

Plaintiff's facts is 'ripe' and have developed enough to allow the court to apply reason and make a useful judgment.

Defendants should be held liable under § 1983 when they misuse official Power, Power Possessed by virtue of state law made Possible because the defendants are clothed with the authority of state law where actors were willful Participants in joint activity with the state or its agents, though not exactly officers of the state committed by persons who are authorized to exercise state authority.

Plaintiff's § 1983 Provides a cause of action against those who deprive Plaintiff of Federally Guaranteed rights while acting under color of state law.

VIII. PRAYER FOR RELIEF

wherefore, Plaintiff respectfully Pray's that the court enter an order:
issuing declaratory relief that the act's and omissions of the defendants
have violated Plaintiff's right's, and stating the defendant's duties with
respect to those right's.

Issuing injunctive relief, commanding the defendant's to (1) Pay all
Plaintiff's Hospital bills and medical treatment Plan.

Plaintiff anticipates the discovery of documents and other evidence within
the control of Defendant's that must be reviewed before any meaningful calculation
of damages such as: All Hospital Records, Police incident reports, statements,
stenographer's reports, exculpatory evidence, Dispatcher records report, etc. Awarding
Plaintiff compensatory damages for the unnecessary deterioration of Physical and
Psychological condition, consequential Pain and suffering in an amount yet to be
decided from the evidence, but in no circumstance will the amount in dem and be
less than \$ "750,000.00".

Request for a new trial for Plaintiff effective after decision.

Attorney's fee's Paid for Plaintiff's representation and Court cost to defendants:

Any other relief this court may deem just and Proper;

Trial by Jury is hereby demand on all claim's alleged here in; and the Parties
are hereby Given notice, Pursuant to Fed. R. Civ. P. 38(a) - (e).

Respectfully Submitted This 6th day of February 2023.

19/ Frank Hall
Frank I. Hall # 1249805

IX VERIFICATION

Pursuant to 28 U.S.C. § 1746 I, Frank I. Hall, declare and verify under Penalty of Perjury the laws of the United States of America. That I have read the Fore Count and that it is true and correct "to the best of my knowledge" and belief.

Dated This 14 day of Feb 2023.

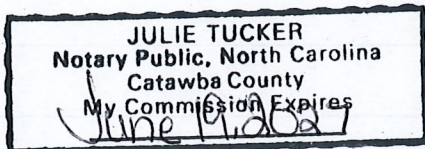
131 Frank Hall
1249806

Sworn and subscribed before me

Julie Tucker
NOTARY PUBLIC

This day of _____ 2023

MY COMMISSION EXPIRES _____



SEAL:

FRANK I. HALL #1249805
A.X.C. I #4870
633 old Land Fill Road
TAYLORSVILLE N.C. 28681

The Clerk of Court
Clerk Frank G. Johns
United States District Court.
Room 210 Charles R. Jonas Building
401 West Trade Street
Charlotte NORTH CAROLINA 28202

Feb 6th . 2023

Clerk Mr. Johns.

I am filing my complaint into your office, unfortunately this facility will not provide prisoners with copies for court. I am requesting that you provide me with a "stamped Received" copy for my records, also "c.c. to all" the necessary copies to Defendant Party(s).

Thank You.

13/ Frank Hall
Frank I. Hall # 1249805

Cover Letter

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